



# For The Record

Updates and News From the DC Bankruptcy Front



## "A Possible End to the LBR 1007/1009 Nightmare?"

### Several New Local Forms Introduced

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#### Highlights...

- **New Local Forms Introduced**
- **From the AO: 12/10 Form Amendments**
- **Update on Motions for Relief From Stay**
- **From Chambers: Service Requirements for motions under Local Rule 9013-1(c)**
- **Statistics**

Have you ever worked hard to file your client's schedules and then received one of those incredibly confusing "Order to File Statement of No Alterations, Supplemental Mailing Matrix, or Show Cause Why Schedules Ought Not Be Stricken"? If you answered yes, don't worry you're definitely not alone! Ask any case administrator, and they'd probably tell you that one of the most common errors and causes for documents being stricken by case administration would be for failure to appropriately respond to that "Statement of No Alterations" order. If attorneys are having a hard time getting this right, can you imagine what kind of experience our pro se debtors must be having? Well, we at the Clerk's Office felt your pain as well...which is why we've recently introduced two local forms addressing those confusing LBR 1007 Statement

of No Alterations and LBR 1009 Certificates of Compliance. The forms can be found on our website under local forms. These new local forms were created to help attorneys (and pro se debt-



ors alike) to put a stop to those frustrating deficiencies. The forms strictly adhere to the appropriate Local Bankruptcy Code, limiting any over/under analysis. Additionally, the Clerk's Office has also introduced a new "Application to Pay Filing Fee in Installments." This new local form enhances the text to include some extra information and to clarify certain guidelines regarding the filing of the applications themselves.

Be advised, all prior versions of installment applications will no longer be accepted and granted (effective immediately). Installment applications will be denied if the court's new local form is not used.

***"Installment Applications will be DENIED if the court's new local form is not used..."***

The new version of the installment application, and the new 1007/1009 forms can be found on our website under "[Court's Local Forms](#)." If any assistance is needed on locating any of these forms, don't hesitate to give us a call at (202) 354-3281.

#### REMINDER TO ALL ATTORNEYS:

#### Don't Forget to Correctly Format and Upload Your Proposed Orders!

Just a quick reminder to all attorneys who tend to file a lot of proposed orders — please remember to correctly format your orders. Since 2009, this court has required that all proposed orders contain a top margin of four (4) inches so that the

judge can add his electronic signature and any additional comments as he finds necessary. Proposed orders should also be reviewed for caption errors prior to submitting them (i.e - Bankruptcy Court for the District of Maryland, instead of DC...etc.). Finally, make sure

that you actually **UPLOAD** the proposed order. You can do this by going to the "Bankruptcy" tab and then clicking on "Order Upload." Keep this in mind, **reviewing your proposed orders can greatly reduce EDNs.**

**From the Administrative Office:  
Amendments to Forms Effective December 1, 2010**  
*(Originally Published October 2010 in the AO's Monthly Update - Page 3)*

**Amended Official Forms:**

Amendments to Official Bankruptcy Forms B9A, B9C, B9I, B20A, B20B, B22A, B22B, B22C, and B23 are scheduled to take effect on December 1, 2010. The Judicial Conference approved the amendment to Form B23 in September 2009, and the other amendments in September 2010. Official Forms B22A and B22C have been amended to delete several references to "household" and "household size" and to replace them with "number of persons" or "family size." As amended, Form B22A directs joint debtors to file separate forms only if one of the debtors is entitled to an exemption under Part I of the form and the debtors believe they are required to file separate forms by § 707(b)(2)(C) of the Bankruptcy Code. As amended, Forms B22A, B22B, and B22C instruct that only one joint filer should report payments by another for household expenses. The amendments to Official Forms

B9A, B9C, B9I, B20A, B20B, and B23 conform to amendments to the Bankruptcy Code, the Rules, and other Official Forms. Official Forms B9A, B9C, and B9I have been amended to conform to amendments to Bankruptcy Rules 4004 and 7001, which direct certain objections to discharge be brought by motion rather than by complaint. The amendments to Official Forms B20A and B20B conform the captions to the 2005 amendments to Official Form B16A and § 727(a)(8) of the Bankruptcy Code. The amendment to Official Form B23 conforms the form to the amendment to Rule 1007, which extends the time for individual debtors to file a statement of completion of a course concerning personal financial management.

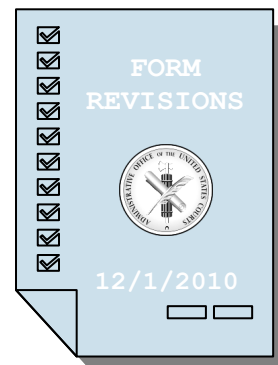
**Amended Director's Form:**

Form B200, Required Lists, Schedules, Statements and Fees, has been amended effective December 1, 2010, to conform to an amendment to Bankruptcy Rule 1007(c). Unless Congress acts to the

contrary before December 1, Rule 1007(c) has been amended to extend the time for an individual debtor in a chapter 7 case to file the statement of completion for a financial management course from 45 days after the first date set for the meeting of creditors to 60 days. The only change on Form B200 is the deadline for filing the statement, which is included in the last item on page 1 of the form.

To view the amended forms, go to the Bankruptcy Forms Pending Changes page at:

[www.uscourts.gov/FormsAndFees](http://www.uscourts.gov/FormsAndFees)



**EFFECTIVE**  
**IMMEDIATELY**

*Filers **MUST**  
identify the  
property in the  
docket text of their  
Motions for Relief  
From Stay*

**A Quick Update on "Motions for Relief From Stay"**

As we all know, generic docket entries can sometimes make deciphering motions quite cumbersome. With this in mind, effective immediately, all attorneys/creditors are to enhance the docket text to include the property details when filing/docketing a "Motion for Relief From Stay." In any given case there can potentially be several different "Motions for Relief From Stay," so specifying what property the motion is related to will greatly help out the judge, as well as other parties involved in the case, when searching the docket for a specific "Motion for Relief From Stay."





# FROM THE JUDGE'S CHAMBERS:



## SERVICE REQUIREMENTS FOR MOTIONS UNDER LOCAL RULE 9013-1 (c)

### Background

One of the most frequent filing deficiencies we see are certificates of service reflecting improper service of motions under Local Rule 9013-1(c). This three-part series explains the service requirements of Local Rule 9013-1(c) and lists some of the most common service deficiencies we encounter. Local Rule 9013-1(c) provides service requirements for standard motion practice under Federal Rule of Bankruptcy Procedure 9013. Particularly, LBR 9013-1(c) sets forth different service requirements for three types of motions: (1) motions within an already commenced adversary proceeding or contested matter; (2) motions commencing a contested matter; and (3) motions under § 1121(d) of the Bankruptcy Code. This first part of the series will address service requirements for motions within an already commenced adversary proceeding or contested matter.

### Motions within a Previously Commenced Adversary Proceeding or Contested Matter

Under LBR 9013-1(c)(1), a motion filed within a previously commenced adversary proceeding or contested matter must be served in accordance with Federal Rule of Bankruptcy Procedure 7005.<sup>1</sup> Federal Rule 7005, in turn, addresses upon whom service must be made, how service is effected, and proof of service filing requirements.

First, Rule 7005(a) sets forth upon whom service must be made. 7005(a)(1)(D) provides that written motions, except those that may be heard ex parte, must be served upon each party to the contested matter or adversary proceeding. In a standard, two-party contested matter or adversary proceeding, then, Rule 7005(a)(1)(D) only requires service on the other party. In larger matters, however, service must be upon all the parties to the proceeding, including co-plaintiffs and co-defendants.

Next, Rule 7005(b) provides for how service must be made. First, under 7005(b)(1), if a party is represented by an attorney, service must be on the attorney, not the party. Although not deficient, we typically see attorneys over-serving under this rule by, for example, also serving a debtor in a previously commenced contested matter when the debtor is represented by an attorney. Second, under 7005(b)(2), in order for service to be effective, the moving party must serve the motion using one of the five enumerated methods: (A) hand delivery; (B) leaving it at the person's office or, if the person has no office, at the person's dwelling; (C) mailing it to the person's last known address; (D) if the person has no known address, leaving it with the clerk; (E) by electronic means, if the person consented in writing; and (F) any other means that the other person has consented to in writing. For purposes of this article, we will focus on the two most used forms of service: service by mail and service by electronic means.

For proper service by mail, service must be to the "last known address" of the party upon whom service is being made. Typically, this provision will only come into operation when the party is pro se and service cannot be accomplished electronically upon the party's attorney, as required by 7005(b)(1). For service upon a pro se debtor, this address will usually be the address provided by the debtor on the petition. This, however, is not always the case. If, for example, a pro se debtor filed an opposition to a motion commencing a contested matter and that opposition provided an address for the debtor different from the address provided by the petition, then the "last known address" would be the address provided on the opposition. This, though, is likely a rare occurrence.

When a party is represented by attorney, service is typically accomplished electronically. Under Rule 7005(b)(2)(E), a party may serve another party by electronic means if the party has previously consented in writing. Moreover, under 7005(b)(3) electronic service may be accomplished through the court's Case Management/Electronic Case Filing system (CM/ECF). Importantly, under this court's Administrative Order RE Electronic Filing, any user who signs up for CM/ECF consents in writing to electronic service through CM/ECF, thereby satisfying the consent requirement of 7005(b)(2)(E).<sup>2</sup> Alternatively, if an attorney is not a registered user of CM/ECF, then service must be accomplished by one of the other enumerated methods, e.g., mail, in Rule 7005. All attorneys filing in this court are either required to file electronically or to file a motion for leave to file in paper. Accordingly, unless an attorney has filed a motion for leave to file in paper, electronic service under Rule 7005(b)(2)(E) is permissible for motions in a previously commenced contested matter.

Finally, Rule 7005(d)(1) requires that the party serving the motion file both the motion and a certificate of service with the court. An acceptable certificate of service for service of a motion by mail in a previously commenced adversary proceeding or contested matter would read as follows: *"I hereby certify that on November 4, 2010, I served a copy of the attached motion on Joe Debtor by first class mail at the following address:"* An acceptable certificate of service for service of a motion on a party's attorney through the court's CM/ECF system would read as follows: *"I hereby certify that on November 4, 2010, a copy of the attached motion was served electronically on Jane Counsel, attorney for Joe Debtor, through the court's CM/ECF system."*

*In the next part, we will address service of motions commencing a contested matter under LBR 9013-1(c)(2).*

<sup>1</sup> Examples of these motions would include a motion to dismiss or a motion for summary judgment within an adversary proceeding, or an opposition to a motion commencing contested matter.

<sup>2</sup> A word of caution: this consent only applies to the service of motions within a previously commenced adversary proceeding or contested matter, and does not apply to a complaint commencing an adversary proceeding or a motion commencing a contested matter, which, as explained in the next part of this series, requires service by mail.



## ON THE RISE: Bankruptcy Filings Continue to Increase



November 2010 Filing Breakdown	Month Total	Year-to-Date
<b>Chapter 7</b>	67	771
<b>Chapter 13</b>	37	352
<b>Chapter 11</b>	12	66
<b>Totals</b>	<b>116</b>	<b>1189</b>

### Did You Know...

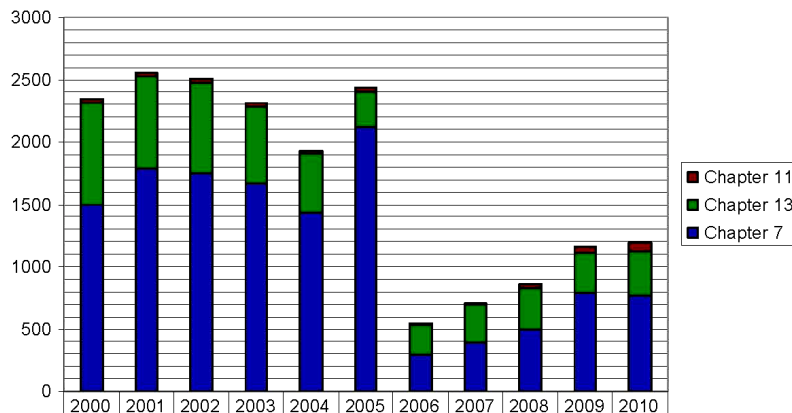
As of November 30, 2010...

- The projected total of cases for 2010 is **1299**
- An average of **3.56** cases are filed daily

Compared to 2009...

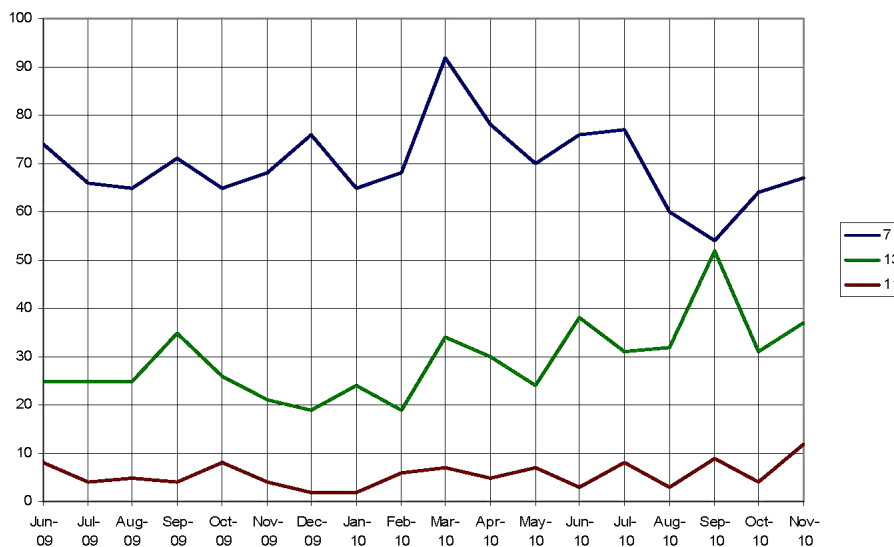
- New filings have increased by **10.5%**

Total Cases Filed per Year



Chapter 11	34	34	32	32	25	22	13	11	28	50	66
Chapter 13	815	736	724	617	471	285	240	303	329	320	352
Chapter 7	1497	1789	1747	1662	1437	2124	297	390	499	792	771
<b>Total</b>	<b>2346</b>	<b>2559</b>	<b>2503</b>	<b>2311</b>	<b>1933</b>	<b>2431</b>	<b>550</b>	<b>704</b>	<b>856</b>	<b>1162</b>	<b>1189</b>

Cases Filed Per Month by Chapter - 18 months



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